

NO. _____
 FILED _____
 AM _____ PM _____

SEP 22 2008

J. DAVID NAVARRO, Clerk
 By DARLENE BOYINK
 DEPUTY

LAWRENCE G. WASDEN
 ATTORNEY GENERAL

JEANNE T. GOODENOUGH
 DEPUTY ATTORNEY GENERAL
 CHIEF, HUMAN SERVICES DIVISION

PEG M. DOUGHERTY, ISB #6043
 Deputy Attorney General
 Division of Human Services
 450 West State Street
 PO Box 83720
 Boise, ID 83720-0036
 Telephone: (208) 334-5537
 Facsimile: (208) 334-5548
 Email: doughterp@dhw.idaho.gov

Attorneys for Defendants

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

JEFFREY L., by his mother and next Friend, Shawn L.;) Case No. : CVOC0815034
 JORDAN B., by his mother and next friend, Karen B.;)
 DILLON H., by his mother and next friend, Kim H.;) MEMORANDUM OF
 MOLLY B., by her mother and next friend, Debbie B.;) UNDERSTANDING
 ISABELLA N., by her mother and next friend, Tammie)
 Jo B.; JOSEPH S., by his guardian and next friend,)
 Jennie K.; and COMPREHENSIVE ADVOCACY,)
 INC., an Idaho non-profit corporation, on behalf of other)
 similarly situated Idaho children,)

Plaintiffs,)

vs.)

IDAHO DEPARTMENT OF HEALTH AND)
 WELFARE, an executive department of the State of)
 Idaho; RICHARD M. ARMSTRONG, Director of the)
 Idaho Department of Health and Welfare, in his official)
 capacity; and LESLIE M. CLEMENT, Administrator of)
 the Division of Medicaid, in her official capacity,)

Defendants.)

MEMORANDUM OF UNDERSTANDING - 1

COPY

03/13/2008 11:31 200 330 3330 00 00 00

COMES NOW, the above-named Plaintiffs, by and through their counsel of record, Mary Jo Butler, of the firm Comprehensive Advocacy, Inc., and Defendants, Idaho Department of Health and Welfare, Richard M. Armstrong, and Leslie M. Clement (hereinafter collectively referred to as "IDHW"), by and through their counsel of record, Deputy Attorney General Peg M. Dougherty, and enter into this Memorandum of Understanding.

Information Release 2008-12 was intended to address Medicaid covered rehabilitative services provided in schools or during school hours. This Memorandum of Understanding addresses those services.

The Parties agree as follows:

1. IDHW will not deny rehabilitative services to children under the age of 21 based on the provision of those services during normal school hours and will not deny services based on where the child receives educational services.
2. Prior authorized plans will be honored by IDHW.
3. IDHW will not cite or recoup payments for services provided under approved plan. In addition, IDHW will not cite or recoup payments for developmental therapy services provided during school hours at a private school or home school location.
4. References to education in a child's Medicaid plan are acceptable; however, goals and objectives must reflect adherence to the criteria for Medicaid approved services.
5. Community based services are not contingent upon the existence of an IFSP or IEP.
6. Prior authorized plans submitted will be reviewed and approved based on IDHW rules and this clarifying Memorandum of Understanding.
7. Plans submitted for prior authorization will be considered for approval based upon the eligibility and criteria for the particular service in IDHW's administrative rules.

8. IDHW does not and shall not require documentation from families related to their decision to home-school their children or send their children to private schools.
9. IDHW does not require parents to submit an EPSDT packet unless services being requested are beyond covered Medicaid benefits. If parents have received an EPSDT packet as a result of the IR, they do not need to complete or submit the packet information.
10. Provider agencies who stopped billing for IDHW approved services as result of the IR should contact the IDHW Regional IBI Coordinator within the next 60 days for adjustments to service limitations.

DATED: September 20, 2008

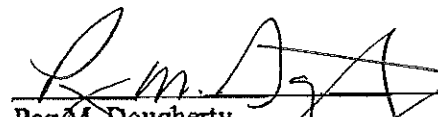
COMPREHENSIVE ADVOCACY, INC.



Mary Jo Butler
Attorneys for Plaintiffs

DATED: Sept. 20, 2008

OFFICE OF THE ATTORNEY GENERAL



Peg M. Dougherty
Deputy Attorney General
Attorneys for Defendants